

Title 22

Labor and Industrial Safety

TITLE 22. LABOR AND INDUSTRIAL SAFETY

IC 22-3-2

Chapter 2. Worker's Compensation: Application, Rights, and Remedies

IC 22-3-2-2.3

Sec. 2.3. (a) As used in this section, "volunteer worker" means a person who:

(1) performs services:

(A) for a state institution (as defined in IC 12-7-2-184); and

(B) for which the person does not receive compensation of any nature; and

(2) has been approved and accepted as a volunteer worker by the director of:

(A) the division of disability, aging, and rehabilitative services; or

(B) the division of mental health.

(b) Services of any nature performed by a volunteer worker for a state institution (as defined in IC 12-7-2-184) are governmental

services. A volunteer worker is subject to the medical benefits described under IC 22-3-2 through IC 22-3-6. However, a volunteer worker is not under IC 22-3-2 through IC 22-3-6.

As added by P.L.2-1992, SEC.739. Amended by P.L.4-1993, SEC.257; P.L.5-1993, SEC.270; P.L.24-1997, SEC.62.

IC 22-9-5

Chapter 5. Employment Discrimination Against Disabled Persons

IC 22-9-5-6

Sec. 6. (a) As used in this chapter, "disability" means with respect to an individual:

(1) a physical or mental impairment that substantially limits at least one (1) of the major life activities of the individual;

(2) a record of an impairment described in subdivision (1); or

(3) being regarded as having an impairment described in subdivision (1).

(b) As used in this subsection, "illegal use of drugs" means the use of drugs the possession or distribution of which is unlawful under the Controlled Substances Act. The term does not include the use of a drug taken under the supervision of a licensed health care professional or another use authorized by the Controlled Substances Act (21 U.S.C. 812) or other provisions of federal law. For purposes of this chapter, an individual shall not be considered disabled solely because the individual is currently engaging in the illegal use of drugs. However, this subsection does not exclude as an individual with a disability an individual who:

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of drugs;

(2) is participating in a supervised rehabilitation program and is no longer engaging in the illegal use of drugs; or

(3) is erroneously regarded as engaging in the illegal use of drugs but is not engaging in the illegal use of drugs.

It is not a violation of this chapter for a person or other entity covered by this chapter to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subdivision (1) or (2) is no longer engaging in the illegal use of drugs. Nothing in this section shall be construed to encourage, prohibit, restrict, or authorize testing for the illegal use of drugs.

(c) Notwithstanding subsection (b), an individual shall not be denied health services or services provided in connection with drug rehabilitation on the basis of the current illegal use of drugs if the individual is otherwise entitled to those services.

(d) For purposes of this chapter, an individual shall not be considered disabled solely on the basis of the following:

(1) Homosexuality.

(2) Bisexuality.

(3) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders.

- (4) Compulsive gambling, kleptomania, or pyromania.
- (5) Psychoactive substance use disorders resulting from current illegal use of drugs (as defined in section 14 of this chapter).

As added by P.L.111-1992, SEC.4.

IC 22-9-5-7

Sec. 7. As used in this chapter, "discriminate" includes the following:

- (1) Limiting, segregating, or classifying a job applicant or an employee in a way that adversely affects the opportunities or status of the applicant or employee because of the disability of the applicant or employee.
- (2) Participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this chapter. Such relationship includes a relationship with:
 - (A) an employment or a referral agency;
 - (B) a labor union;
 - (C) an organization providing fringe benefits to an employee of the covered entity; or
 - (D) an organization providing training and apprenticeship programs.
- (3) Utilizing standards, criteria, or methods of administration:
 - (A) that have the effect of discrimination on the basis of disability; or
 - (B) that perpetuate the discrimination of others who are subject to common administrative control.
- (4) Excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or an association.
- (5) Not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee unless the covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the covered entity.
- (6) Denying employment opportunities to a job applicant or an employee who is an otherwise qualified individual with a disability if that denial is based on the need of the covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant.
- (7) Using qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test, or other selection criteria, as used by the covered entity, is shown to be job related for the position in question and is consistent with business necessity.
- (8) Failing to select and administer tests concerning employment in the most effective manner to ensure that when the test is administered to a job applicant or an employee who has a disability that impairs sensory, manual, or speaking skills, the test results accurately reflect the skills, aptitude, or other factor of the applicant or employee that the test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of the employee or applicant, except where those skills are the factors that the test purports to measure.

As added by P.L.111-1992, SEC.4.

IC 22-9-5-24

Sec. 24. (a) A covered entity may do the following:

- (1) Prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees.
- (2) Require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace.
- (3) Require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.).
- (4) Hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that the entity holds other employees, even if the unsatisfactory job performance or behavior is related to the drug use or alcoholism of the employee.
- (5) With respect to federal regulations regarding alcohol and the illegal use of drugs, require that:
 - (A) employees comply with the standards established in the regulations of the United States Department of Defense if the employees of the covered entity are employed in an industry subject to those regulations, including complying with regulations, if any, that apply to employment in sensitive positions in the industry, in the case of employees of the covered entity who are employed in those positions (as defined in the regulations of the United States Department of Defense);

(B) employees comply with the standards established in the regulations of the United States Nuclear Regulatory Commission if the employees of the covered entity are employed in an industry subject to those regulations, including complying with regulations, if any, that apply to employment in sensitive positions in the industry, in the case of employees of the covered entity who are employed in those positions (as defined in the regulations of the United States Nuclear Regulatory Commission); and

(C) employees comply with the standards established in the regulations of the United States Department of Transportation if the employees of the covered entity are employed in a transportation industry subject to those regulations, including complying with regulations, if any, that apply to employment in sensitive positions in the industry, in the case of employees of the covered entity who are employed in those positions (as defined in the regulations of the United States Department of Transportation).

(b) For purposes of this chapter, a test to determine the illegal use of drugs shall not be considered a medical examination.

(c) Nothing in this chapter shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on the test results.

(d) Nothing in this chapter shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entities subject

to the jurisdiction of the United States Department of Transportation of authority to:

(1) test employees in, and applicants for, positions involving safety sensitive duties for the illegal use of drugs and for on duty impairment by alcohol; and

(2) remove those persons who test positive for illegal use of drugs and on duty impairment by alcohol under subdivision (1) from safety sensitive duties in implementing subsection (c).

As added by P.L.111-1992, SEC.4.

IC 22-9-6

Chapter 6. Equal Access to Housing for Persons With Disabilities

IC 22-9-6-1

Sec. 1. (a) As used in this chapter, and unless otherwise indicated by the context, "person with a disability" means an individual who, by reason of physical or mental defect or infirmity, whether congenital or acquired by accident, injury, or disease, is or may subsequently be totally or partially prevented from achieving the fullest attainable physical, social, economic, mental, and vocational participation in the normal process of living.

(b) "Persons with disabilities" include blind persons, visually disabled persons, and other physically disabled persons.

As added by P.L.2-1993, SEC.132. Amended by P.L.23-1993, SEC.135.

IC 22-9-6-2

Sec. 2. (a) As used in this chapter, "housing accommodations" means:

(1) real property, or part of real property, that is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home residence or sleeping place of at least one (1) person; or

(2) single family residence, the occupants of which rent, lease, or furnish for compensation not more than one (1) room of the residence.

(b) The term does not include hotels, lodging places, or other places of public accommodations, amusement, or resort of a transient nature.

As added by P.L.2-1993, SEC.132.

IC 22-9-6-3

Sec. 3. All persons with disabilities are entitled to full and equal access, as other members of the public, to all housing accommodations offered for rent, lease, or compensation in Indiana.

As added by P.L.2-1993, SEC.132. Amended by P.L.23-1993, SEC.136.

IC 22-9-6-4

Sec. 4. This chapter does not require a person renting, leasing, or providing for compensation real property to modify the person's property in any way to provide a higher degree of care for a person with a disability than for a person who is not disabled.

As added by P.L.2-1993, SEC.132. Amended by P.L.23-1993, SEC.137.

IC 22-9-6-5

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Sec. 5. A person renting, leasing, or providing real property for compensation shall not refuse to accept a person with a disability as a tenant due to the fact that the person with a disability has a guide dog that assists the person with a disability in overcoming a particular disability.

As added by P.L.2-1993, SEC.132. Amended by P.L.23-1993, SEC.138.

IC 22-9-6-6

Sec. 6. A person who feels the person's rights under this chapter have been violated may submit a complaint to the civil rights commission under IC 22-9-1-6. The civil rights commission shall determine whether the complaint requires action to be taken under IC 22-9-1-6.

As added by P.L.2-1993, SEC.132